**Patrick H. Merrick, Esq.**
Director – Regulatory Affairs
AT&T Federal Government Affairs

Suite 1000
1120 20th Street NW
Washington DC 20036
202 457 3815
FAX 202 457 3110

February 7, 2003

**Via Electronic Filing**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation: Petitions of US LEC Corp and T-Mobil USA, Inc. et al, for Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic, CC Docket No. 01-92.

Dear Ms. Dortch:

Yesterday, February 6, 2003 Daniel Meron of Sidley Austin Brown & Wood, representing AT&T and I met with Tamara Preiss, Steve Morris, Joseph Levin, Stacy Jordan, Victoria Schlesinger and Jarod Carlson of the Federal Communications Commission. AT&T reiterated its position that CLECs should not be able to impose additional access charges upon Interexchange carriers when they insert themselves between a CMRS provider and the ILEC tandem switch and provide no new access service or functionality. The attached document was used as an outline for the discussions.

Consistent with the Commission rules, I am filing one electronic copy of this notice and request that you place it in the record of the proceedings.

Sincerely,

Patrick H. Merrick

Attachment

cc: Tamara Preiss
Steve Morris
Joseph Levin
Stacy Jordan
Victoria Schlesinger
Jared Carlson

**US LEC Corp. Petition**
**CC Docket No. 01-92**

- The US LEC Petition is purposefully vague. The "real" question presented is whether a CLEC, by inserting itself between a CMRS carrier and the ILEC tandem switch, can impose an additional access charge on IXCs when that CLEC provides no new access service or functionality.

- There is absolutely no reason to endorse the above practice and the FCC should deny the US LEC petition and rule that such a practice violates commission rules and policies.

- Under the recent Sprint PCS ruling, CMRS carriers have no authority under the Act or any Commission rule or order to unilaterally impose access charges on IXCs.

- Some CMRS carriers, in an effort to avoid this Commission mandate, have now joined with certain CLECs in order to recover access charge indirectly from the IXC via the CLEC. This arrangement simply routes the traffic from the CMRS provider to a CLEC and then back to the ILEC tandem for delivery (and access charges) to the IXC. The CMRS provider and the CLEC share the access revenue generated by this practice.

    - The CLEC provides no additional access functionality or value under this arrangement.

    - The CLEC seeks to collect a duplicative access charge from the IXC at the full benchmark rate for this excess routing as if the CMRS provider were an end user customer.

    - The sole effects of this arrangement are to generate significant additional and duplicative charges on IXC.

- The only instance where a CLEC should be permitted to charge an IXC for access services in connection with CMRS traffic is where the CLEC actually replaces the ILEC in performing an access function normally performed by the ILEC. And in that situation, CLECs should not be allowed to charge the full maximum CLEC benchmark access rate, which has no application to the very limited transiting functions at issue in this case, but should only be allowed to charge the ILEC rate for those same functions.

- AT&T estimates that this practice results in as much as $50M or more in access overcharges for AT&T alone.

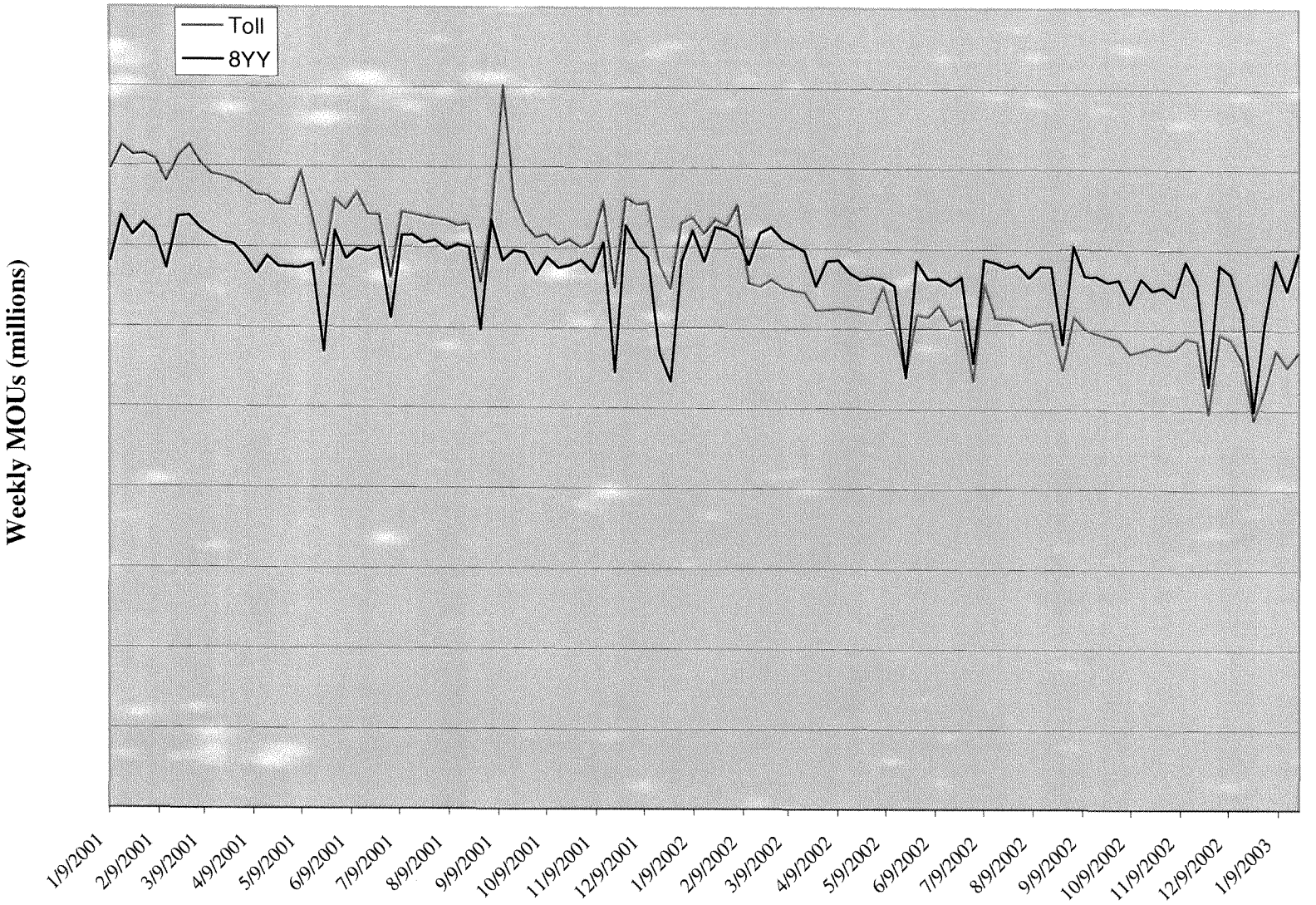
- In two years, the percentage of 8YY traffic received from CLECs increased from approximately 10% of AT&T's total CLEC minutes to approximately 75% of AT&T's total CLEC minutes.

- Certain CLECs' growth in minutes over the last two years can only be attributed to this practice.

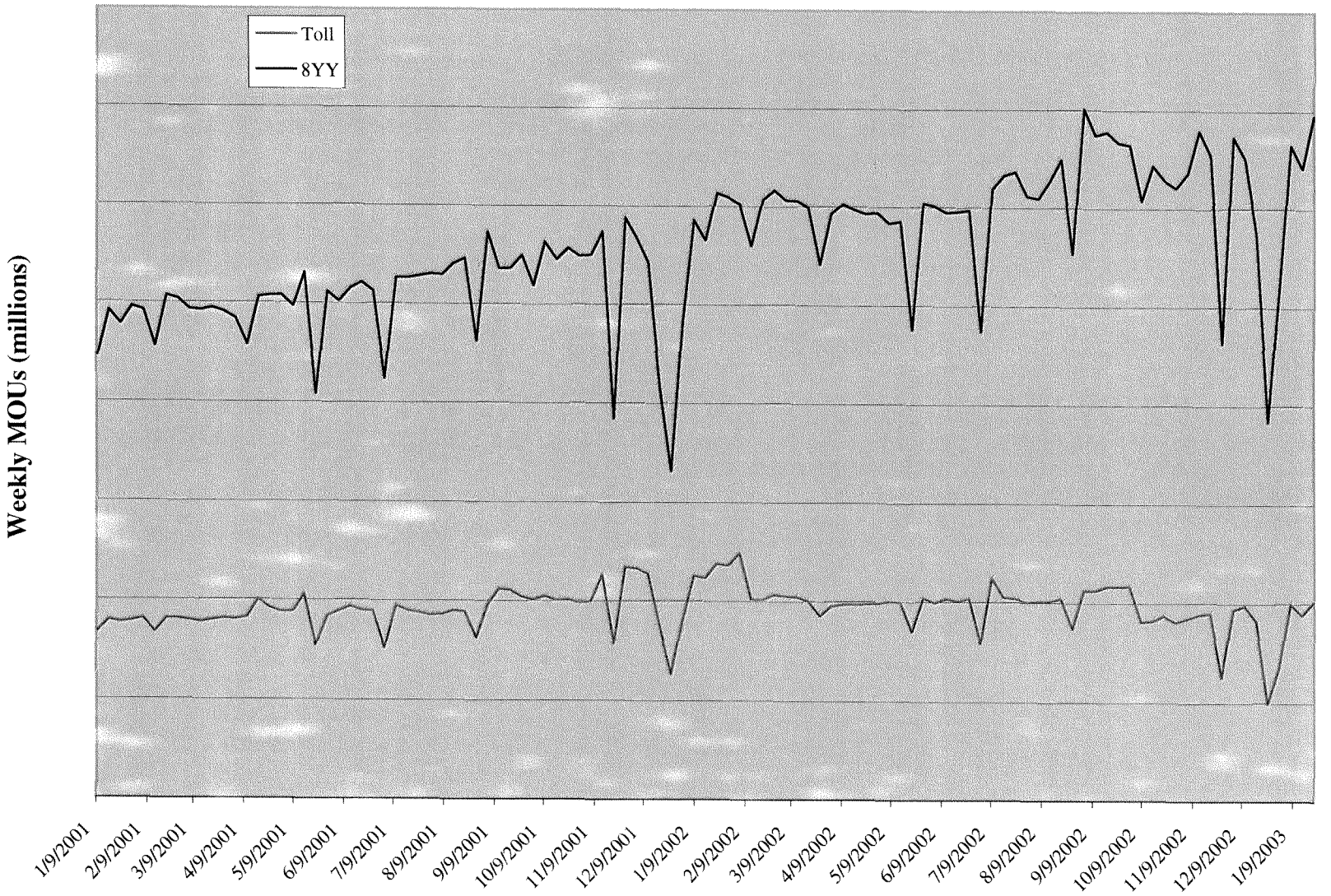
    - CLEC A - +95%
    - CLEC B - +80%

- AT&T's weekly minute summaries by type are provided in the following graphs.

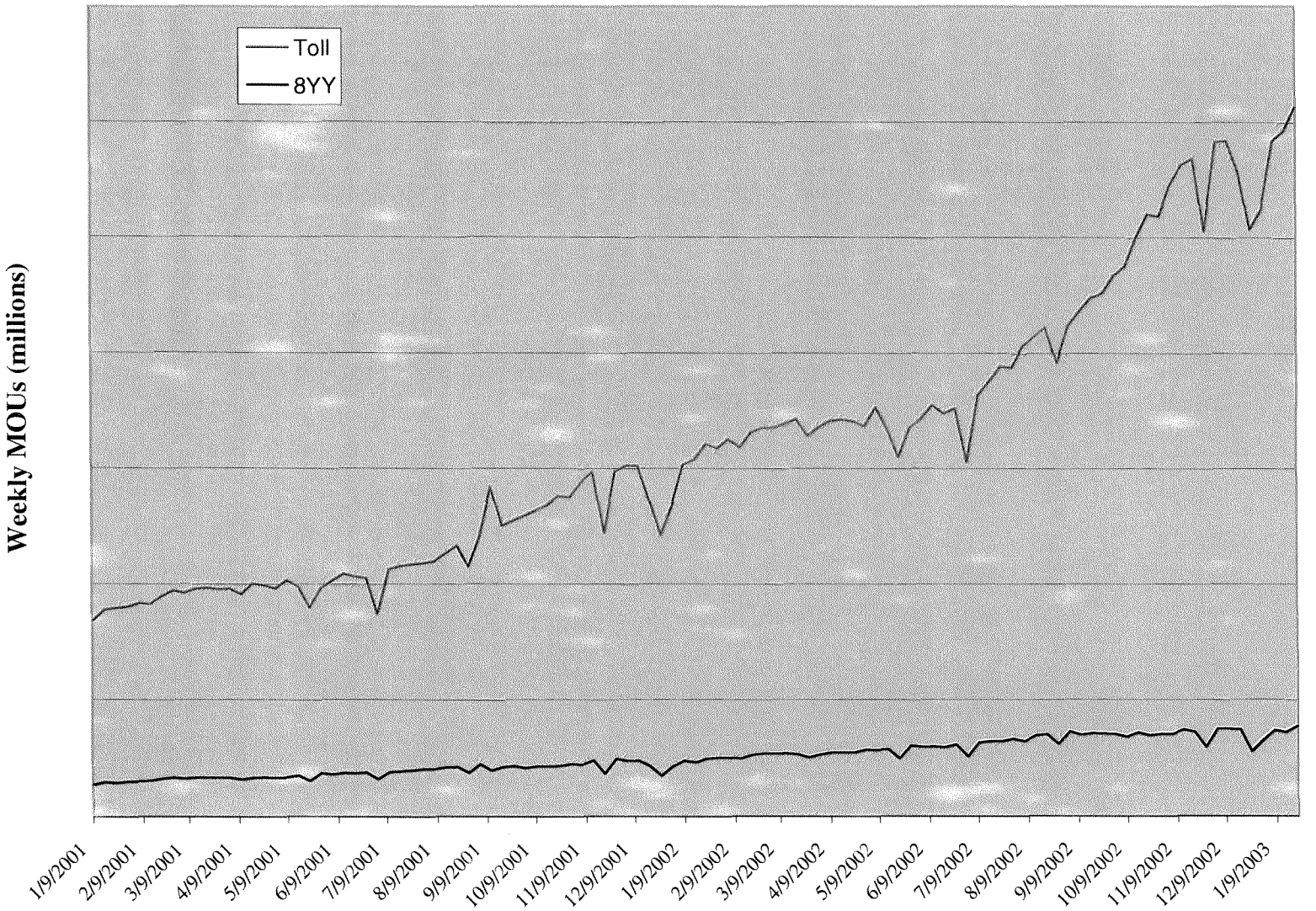
# RBOC Traffic



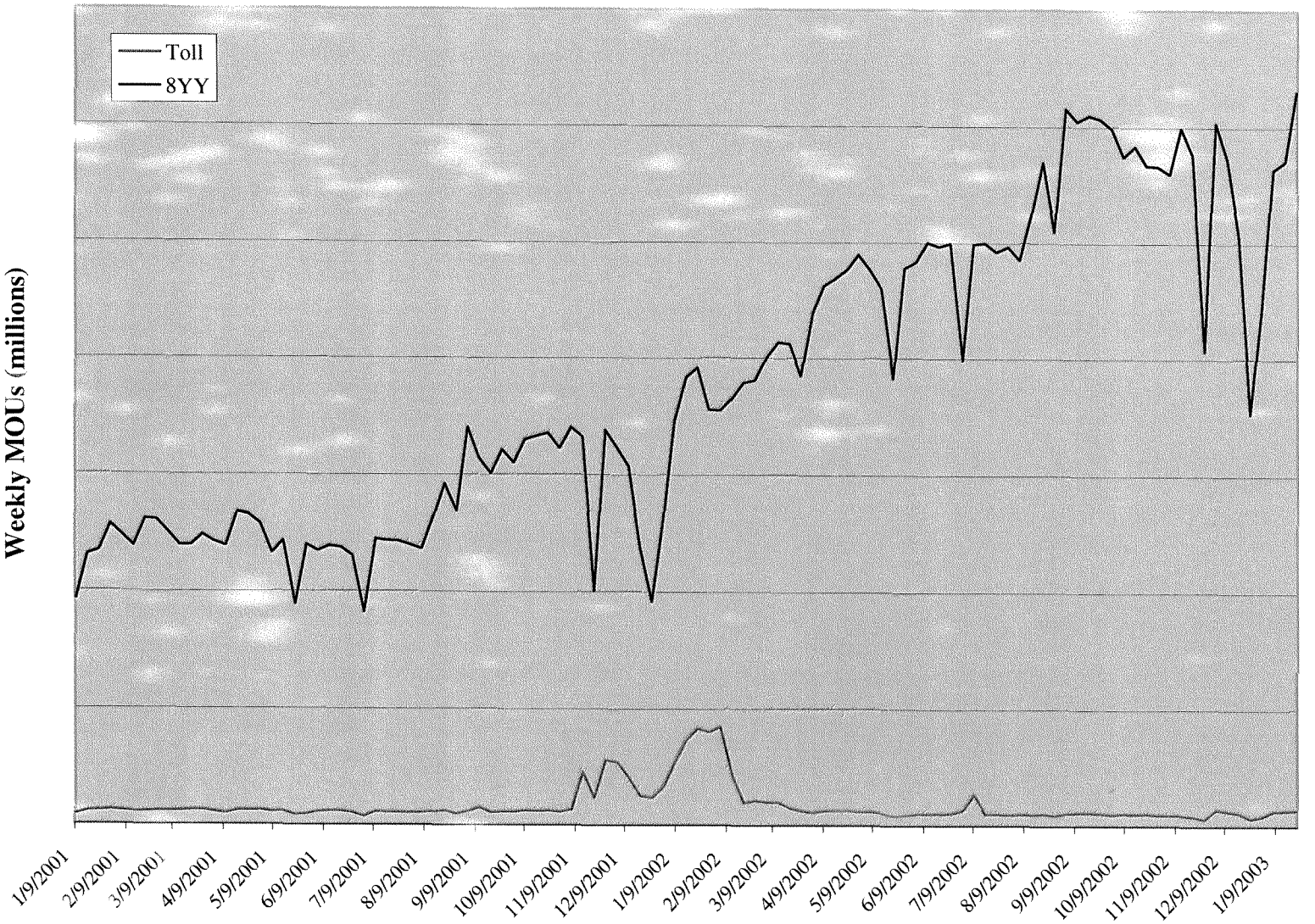
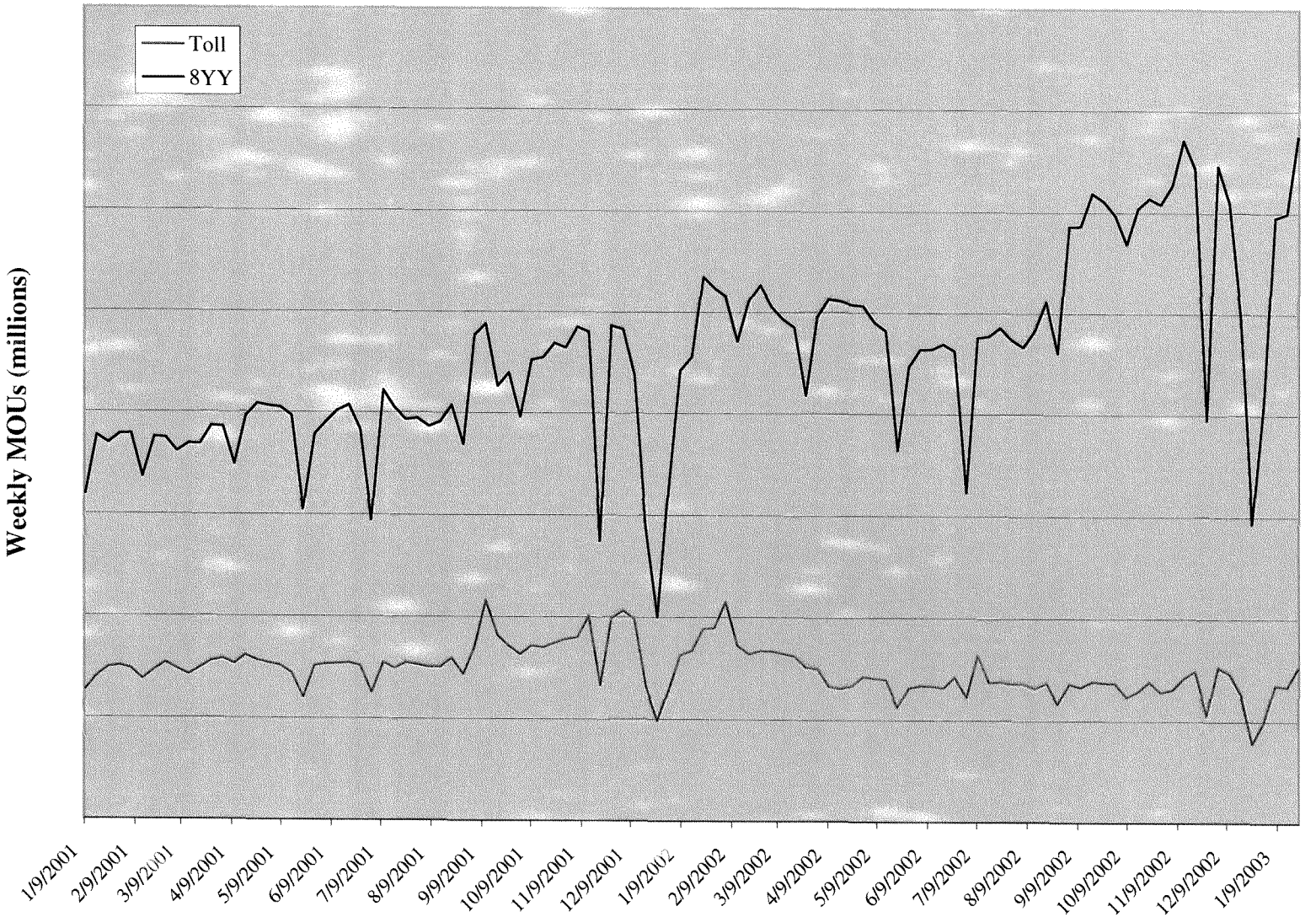
# CLEC Traffic



# Wireless Traffic



# CLEC A Traffic



# CLEC B Traffic